

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

TIMOTHY HOLDEN and KEVA  
HOLDEN

Plaintiffs,

v.

Civil No. 04-10359-BC  
Hon. David M. Lawson  
Magistrate Judge Charles E. Binder

CITY OF SAGINAW, SAGINAW POLICE  
DEPARTMENT, DETECTIVE MARK  
LIVELY, AUTO OWNERS INSURANCE  
COMPANY, McMARTIN, WASH &  
ASSOCIATES, MICHAEL DAWAN, DIANE  
FROST, DET. SANDRA PATES,  
SECURE CARE, INCORPORATED,

Defendants.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,  
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, AND  
DISMISSING MCMARTIN, WASEK & ASSOCIATES,  
AND MICHAEL DWAN AS PARTIES**

Before the Court is the motion for summary judgment filed by McMartin, Wasek & Associates, and Michael Dwan. On December 20, 2004, the plaintiffs Timothy and Keva Holden filed a *pro se* complaint alleging that some of the defendants brought false and fraudulent charges against the plaintiffs and violated the Freedom of Information Act. The complaint incorrectly names Michael Dwan as Michael Dawan. Thereafter, the Court referred the case to United States Magistrate Judge Charles E. Binder on an order of general case management pursuant to 28 U.S.C. § 636(b) and E.D. Mich. LR 72.1. The motion for summary judgment was filed on May 3, 2005. On June 24, 2005, the magistrate judge issued a report recommending that the Court grant the motion and dismiss the claims against these parties for a failure to state a claim against them. The plaintiffs did not file any objections to the report and recommendation. The plaintiffs' failure to file

objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation is **ADOPTED**.

It is further **ORDERED** that the motion for summary judgment by McMartin, Wasek & Associates, and Michael Dwan [dkt # 38] is **GRANTED**.

It is further **ORDERED** that all claims by or against McMartin, Wasek & Associates, and Michael Dwan are **DISMISSED**.

It is further **ORDERED** that the matter is referred to the magistrate judge under the present order for general case management as to the remaining portions of the complaint in accordance with this opinion and order.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: July 21, 2005

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 21, 2005.

s/Tracy A. Jacobs  
TRACY A. JACOBS